

Still Local After All These Years...

The National Historic Preservation Act (NHPA) of 1966 is most successfully realized when the abilities and differences among the various levels of government operate in unison. The federal program brings legitimacy, financial incentives, a systematized process, and broad arms to guide national activity. The states offer centralized assistance while dividing the process into more manageable units. The states also pass legislation and judicial authority to the local level, and it is there that real protection occurs. Local laws actually stop demolition and prevent insensitive changes to historic properties—legally and constitutionally.

The local aspect of the national process of resource identification, evaluation, registration, and protection is the one with the teeth! The effectiveness of our national preservation program relies on the retention of historic resources, and the retention of resources depends solely on local advocates' ability to influence opinions and actions of citizens through the programs, policies, and laws at the local level.¹ The unification of the different players' "strands" within the "web" of the national historic

preservation program has helped to change the look, the feel, the economy, and the future of this country.

My thoughts regarding how the NHPA relates to the local level reflect my biased opinion and unabashed faith in local government. I have a committed and sincere appreciation for the process and accessibility of local government. Many folks "inside the Beltway" forget the wonderful lesson of democracy as it is practiced in the local arena. I'm happy that my mayor, Gwen O'Looney, is here in Athens, Georgia. I can call her at home and discuss any problem facing me or my neighbors. Understandably, I feel that local government is here for me and I have access to it. I don't feel as close to my state representative or senator in the Georgia General Assembly, nor to the governor, and not at all close to my Congressional delegation. It is here at the local level where I have an influence on policy and can affect my personal comfort most directly. I participate in local government and feel good, most of the time, for doing it.

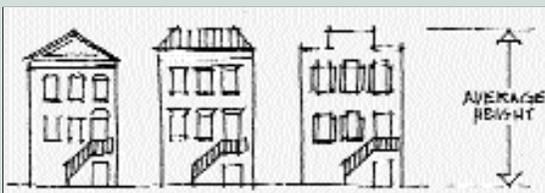
Local preservation has those same benefits. National agendas, federal assistance, and government activity have greatly influenced how preservation is accomplished in the United States, but it has not changed the simple truth that historic communities are saved one property at a time, and historic properties are saved one brick at a time. Local preservation programs may depend heavily upon state laws for authorization and on federal and state programs for financial and technical assistance, but if local preservationists fail to rally when needed, state and federal programs, in and of themselves, fail to save the resource.²

Preservation at the local level, as envisioned by a preservation ordinance and design review process, can be traced much farther than NHPA. The Charleston, South Carolina, preservation ordinance, passed in 1931, set the standard for how buildings are protected by local laws. Local Charlestonian leadership adapted a legal tool to meet preservation needs, and the local resource protection and design review movement began. We are still protecting local historic resources in the method established in 1931. As other cities followed Charleston's example, the number of local historic districts gradually increased. However, they were few in number, the attitude of state courts toward aesthetic regulation ranged from suspicion to hostility, legal tools for preservation were limited, and there were no ties among local,



Local preservation commissions have been considering the impact of contemporary architecture on districts since the first review board was established in Charleston, SC, in 1931, and now many of them are considering extending the protection of their ordinances to brand new buildings outside historic districts that have immediately recognizable architectural significance. During a comprehensive preservation planning process, the Atlanta Urban Design Commission discussed conferring landmark status to Richard Meier's 1983 High Museum of Art. Photo by Pratt Cassity.

Height—this is a mandatory criteria that new buildings be constructed to a height within 10% of the average height of existing adjacent buildings.



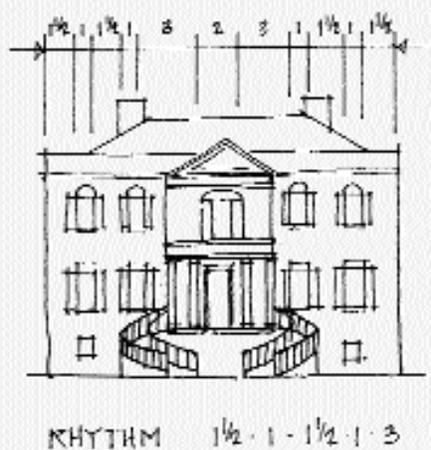
Proportion of buildings' front facades—the relationship between the width and height of the front elevation of the building.



Proportion of openings within the facade—the relationship of width to height of windows and doors.



Rhythm of solids to voids in front facade—rhythm being an ordered recurrent alternation of strong and weak elements. Moving by an individual building, one experiences a rhythm of masses to openings.



The visual compatibility factors included in the preservation plan for Savannah, GA, have shown up in design guidelines and local ordinance language across the country. The drawings that were prepared as part of the 1960s HUD plan by Eric Hill Associates and Muldawer-Patterson Architects have been used in countless guidelines booklets for neighborhoods and commercial areas. These "borrowed" ideas can become quite humorous when seen out of context. They have shown up in guidelines for districts where a Savannah double-staired entry would be extremely out of place. Courtesy U.S. Department of Housing and Urban Development.

state, and federal efforts.³ It would be decades before a national act could further define preservation for our nation. In fact, some of the impetus for creating a nationalized process came about because of the disjointed and inconsistent approaches toward preservation due to diversity and lack of unity among local programs.

Prior to 1966, preservation efforts at the federal level had a decidedly "local" flavor, the creative use of the HUD 701 programs, now nearly historic themselves, taught many of us that what was happening to downtowns and intown neighborhoods was not necessarily good for cities, and certainly not good for the nation. In Savannah, Natchez, College Hill (Providence, Rhode Island), and Society Hill (Philadelphia, Pennsylvania), we saw what community conservation needed to be. These innovative planning projects, and others like them, set the stage for a national program that could be administered through the federal government and have very specific local impacts. These early bellwether preservation plans show a clear involvement and connection to local government.⁴

By 1966, local programs were firmly established in many of the major historic areas of larger American towns. The 1966 watershed act was passed. The NHPA did not have an easy job in its attempt to unify a collection of individualized approaches, typically a recipe for disagreement and conflict. However, many local governments saw the value of the NHPA, embraced it wholeheartedly and were able to use it to bolster their own preservation programs.

The NHPA gave local efforts form and order. It passed along to municipal preservation programs consistent identification methods for historic resource survey and inventory. It unified criteria for determining significance for local designation through the evaluation of properties for listing in the National Register. It began a structuring process that was being built from the bottom up, as well as from the top down. The NHPA helped to give a greater system to all preservation decision-making. It brought many of the state and local programs up to the proverbial "level playing field." Grants-in-aid accelerated the process, and SHPO staff assured quality control. Local programs evolved from unrelated entities into a more unified and like-minded group.

Federal funding, licensing, or insuring of projects triggered the process that brought together SHPO, federal agencies, and the Advisory Council on Historic Preservation. It gave local governments and the public a chance to hear and see procedural preservation in action. It gave local commissions a model on which to base their own technical project reviews. The Secretary of the Interior's Standards and projects that resulted from the use of the federal

investment tax credits enabled local design guidelines and the local design review process to become more aligned with international preservation theory and national standards. Thus, the quality and consistency of local design review decisions improved.

Commissions began to feel better about how they were doing their jobs. The 1976 Bicentennial and the Supreme Court's 1978 magnificent decision in *Penn Central Transportation v. City of New York* was just the reinforcement needed to make local commissions rise up and be counted. The National Trust for Historic Preservation specifically through their *Landmark and Historic District Commission* newsletter and the newly created National Alliance of Preservation Commissions solidified local programs. Commissions became a force to be reckoned with.⁵

The NHPA amendments of 1980, coupled with the 1978 Penn Central decision, changed commission history forever. The NHPA formally and finally recognized the oldest partners in preservation—local government—by creating a process for states to develop Certified Local Government (CLG) programs. It gave states an opportunity to offer specialized assistance to commissions and to local governments that wanted to create local preservation programs. The changes to NHPA and the new constitutional confidence in local ordinances spawned annual statewide preservation commission training across the nation, helping to create statewide associations of commissions (currently there are 10 states with alliances of local historic district and landmark commissions). The CLG programs came with their own funding, and although only 10% of the overall federal allocation goes to eligible local governments, the grants and technical assistance caused the number and sophistication of commissions to increase dramatically.

Today's commissions are facing a variety of new issues and some of the same old problems too. Many of these are influenced by the national preservation program and the NHPA, but most are related to the idiosyncrasies of a particular locale. A sampling of the typical day-to-day issues affecting commissions shows:

- Chicago is having problems with the politics of local designation. The Chicago City Council enacted recent changes to its landmarks preservation ordinance, allowing the potential inaction of aldermen to effectively deny forever the protection of buildings and places in Chicago. The "sunset" provision in their law makes Chicago the only city in the country to remove buildings from possible designation because an elected body failed to take action.⁶
- The Oregon "owner consent" clause, made law in the 1995 legislative session, is viewed by Oregon local preservationists as very detrimental

to the regulatory protection of historic resources. The vaguely worded law requires a property owner's consent to designate individuals properties under the provisions of a local preservation ordinance. This law, and similar legislation in other states, is making the task of protecting resources at the local level much harder. This kind of statute is usually labeled as a "property rights bill" or "wise use legislation." Oregonians are planning to challenge the law in court.⁷

- Because of the value of preservation to Wisconsin's cities and villages, the State of Wisconsin enacted a new law in 1994 that requires cities and villages to enact local preservation ordinances if they have properties that are listed in the National Register or state registers of historic places. The ordinances were to be in place by the end of 1995. Nearly 200 cities are affected. Model legislation was distributed to them by the Wisconsin SHPO, and training opportunities for new commissioners are being planned.⁸
- A Sacramento County Superior Court judge overturned a California law that exempted religious organizations from local historic preservation ordinances. The 1995 law prevented cities from conferring landmark status on church properties without the church's permission. The judge said that the law unfairly favored religious groups at the expense of other property owners. It gave religious organizations a right confined to local governments. Now, a church is not exempt from the landmarking process.⁹
- In Virginia, where some of the oldest local preservation review programs exist, there is a discussion of changing terminology from local "architectural review boards" to "preservation commissions" and broadening the authority for Virginia's ARBs to include more of a community planning function.¹⁰
- The commission in Salem, Massachusetts, took a beating in recent episodes of the television show, "This Old House." The family, their architect, and the show's host proposed an extremely insensitive carriageway addition to a ca. 1768 house. The new garage door entrance would allow the family to park inside the property rather than on the street along with their neighbors. Eventually, the carriageway was not approved, but the negative media coverage of the approval process exposed commissions across the country to criticism from both sides of the fence. Commission chair Helen Sides lamented, "No matter whose side of the story you hear, we were at fault. People blamed us for not doing enough or for doing too much." However, putting a positive spin on the situation, she concludes with the thought that Salem

United States Preservation Commission Identification Project
*Breakdown of Number of Historic Preservation Commissions
and Certified Local Governments by State*

STATE	Historic Preservation Commissions			Certified Local Governments	
	1976	1981	1996	1987	1996
Alabama	6	12	10	5	10
Alaska	0	3	14	3	12
Arizona	6	12	15	8	15
Arkansas	3	6	7	2	7
California	30	55	87	6	36
Colorado	12	14	36	6	20
Connecticut	38	51	73	2	23
Delaware	4	5	6	2	2
District of Columbia	1	1	2	n/a	n/a
Florida	12	20	40	10	28
Georgia	7	15	76	14	47
Hawaii	0	1	2	1	2
Idaho	1	5	30	24	26
Illinois	21	29	79	12	39
Indiana	5	2	24	3	9
Iowa	0	5	99	24	94
Kansas	2	3	8	2	5
Kentucky	6	7	33	6	21
Louisiana	3	5	15	7	27
Maine	1	5	18	2	8
Maryland	18	30	40	10	14
Massachusetts	59	84	141	11	20
Michigan	9	43	54	6	12
Minnesota	9	15	42	9	25
Mississippi	2	7	18	5	18
Missouri	11	11	33	10	19
Montana	0	4	14	5	15
Nebraska	1	2	2	2	2
Nevada	2	2	2	3	3
New Hampshire	28	28	58	5	9
New Jersey	12	38	66	9	21
New Mexico	4	5	6	3	6
New York	22	45	132	10	34
North Carolina	20	44	73	16	34
North Dakota	0	0	4	0	4
Ohio	17	19	82	8	22
Oklahoma	3	4	13	2	11
Oregon	4	13	32	7	18
Pennsylvania	29	47	74	9	21
Rhode Island	8	10	19	8	16
South Carolina	7	7	23	5	13
South Dakota	2	2	17	11	19
Tennessee	8	15	32	8	15
Texas	11	21	56	8	36
Utah	1	3	65	37	70
Vermont	6	9	24	3	7
Virginia	17	26	59	8	21
Washington	9	11	43	13	26
West Virginia	4	10	51	4	33
Wisconsin	15	21	53	11	21
Wyoming	0	0	17	7	18
TOTAL	492	832	2019	392	1034

The United States Preservation Commission Identification Project (USPCIP), jointly conducted by the NPS, National Trust for Historic Preservation, and National Alliance of Preservation Commissions, compiled the different tallies for commissions that have occurred over the past 21 years. The USPCIP resulted in the creation of a national commission database managed by the Office of Preservation Services at the University of Georgia. The chart illustrates the growth of commissions in this country and indicates a link between the increasing number of commissions in many states and the NHPA (1966 and especially the 1980 amendments), America's Bicentennial (1976), and the Penn Central decision (1978).

would become derelict without the historical commission.¹¹

- Preservationists in Dallas, Texas, accomplish a lot in a difficult climate. Despite the inherent difficulties of working in a city priding itself on the “new,” preservationists have secured an impressive set of financial incentives to attract reinvestment in historic properties in tandem with the urban Main Street project of Downtown Dallas, Inc., the city’s preservation commission offers double incentives for adaptive projects for housing in the downtown.¹²
- As part of the recent revision of the Salt Lake City zoning code, the historic preservation section—Chapter 17—has undergone a complete overhaul. Now a more effective ordinance allows outright denial of demolition for specific sites designated as landmarks, provides a seven-point test that can result in the denial of demolition of contributing buildings within a district, leaves more room for administrative approval so that the review process is more streamlined, and elevates the Landmarks Committee from a division of the Planning Commission to an independent commission. The commission is beginning to use newly developed design guidelines and will be pursuing efforts to list additional properties in the National Register.¹³

I see the future of the NHPA and the future of the local preservation commission within the larger context of the entire preservation movement. Preservation is making new partners and embracing new strategies. New technology, professional associations, downsizing, environmentalism, privatizing, and restructuring are all words and concepts that have affected the marketplace and will affect historic preservation.

Local commissions are better defined now and can play a more active role in the national historic preservation program. The role of the local commission is one to be watched. It is at the local level where we will first see the next trend or encounter the next big obstacle in historic preservation. Likewise, it is at the local level where the most stringent resource protection strategies exist. The national historic preservation program cannot and should not exist without the local regulatory process as a part of it. Throughout the next century, the NHPA should continue to provide the framework for the national preservation agenda, and changes to the Act must recognize, support, and bond the various approaches at all levels of government.

Notes

1. Bryan Mitchell, An Address to the Local Government’s Committee of the National Conference of State Historic Preservation Officers, March 1989, Washington, DC.

2. J. Myrick Howard, “Where the Action is: Preservation and Local Government,” in Robert E. Stipe and Antoinette J. Lee, eds., *The American Mosaic: Preserving a Nation’s Heritage*. (Washington, D.C.: US/ICOMOS, 1987), p. 114.
3. Robert E. Stipe, “Historic Preservation: The Process and the Actors,” in *The American Mosaic: Preserving a Nation’s Heritage*, *ibid.*, p. 4.
4. William J. Murtagh, “Aesthetic and Social Dimensions of Historic districts,” in *Historic Districts: Identification, Social Aspects, and Preservation*, presented at the Seventh General Assembly of ICCROM, Rome, Italy, 1973. (Washington, D.C.: National Trust for Historic Preservation, 1975), p. 9.
5. Stephen N. Dennis, “Tales from an Ancient Mariner: Twenty Years in the Development of American Local Historic Preservation Commissions,” *The Alliance Review* (Athens, Georgia: National Alliance of Preservation Commissions, December 1995), p. 1.
6. Landmarks Preservation Council of Illinois, Newsletter Committee, “City Council Action Puts Chicago Landmarks at Risk,” *Landmarks Preservation Council of Illinois*, vol. 25, no. 2, Spring 1996, p. 1.
7. Lisa M. Burcham, “Owner Consent: Responding with Carrots and Sticks,” *The Alliance Review* (Athens, Georgia: National Alliance of Preservation Commissions, Fall 1995), p. 2.
8. Larry Reed, “New State Legislation Enacted in Wisconsin,” *The Alliance Review* (Athens, Georgia: National Alliance of Preservation Commissions, Winter 1995), pp. 3-4.
9. Gerald D. Adams, “Judge: Churches Are Not Exempt from Landmark Status Laws,” *San Francisco Examiner*, 8 April 1996.
10. David J. Brown, Interview by Pratt Cassity during “Entrepreneurial Preservation,” at Virginia State Preservation Conference, Roanoke, Virginia, April 12, 1996.
11. Suzanne Freeman, “This Old Hassle,” *Historic Preservation*, May/June 1996, p. 54.
12. Dwayne Jones, “Texas: Local Government Preservation Initiatives in the Lone Star State,” *The Alliance Review* (Athens, Georgia, National Alliance of Preservation Commissions, Fall 1995), p. 5.
13. Elizabeth Egleston, “Salt Lake City Adopts More Stringent Preservation Ordinance,” *The Alliance Review* (Athens, Georgia: National Alliance of Preservation Commissions, Spring 1996), p. 9.

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